


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA

FILED

JUL 18 2008


CLERK

CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

KIMBERLY ROBERTS,

Defendant.

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CR. 08-30023(03)-LLP

REPORT AND RECOMMENDATION
ON DEFENDANT'S CHANGE OF PLEA

This matter came on before the Court for a change of plea hearing on Friday, July 18, 2008. Defendant, Kimberly Roberts, appeared in person and by her counsel, David W. Siebrasse, while Plaintiff, United States of America ("Government") appeared through Jay P. Miller, an Assistant United States Attorney.

Defendant consented in open court to the change of plea before the Court and her consent was knowingly and voluntarily made. The Government also consented to the Court taking Defendant's plea.

Defendant has reached a plea agreement with the Government wherein she intends to plead guilty to the charge as contained in the Indictment. Defendant is charged in the Indictment with Conspiracy to Distribute and Possess with Intent to Distribute a Controlled Substance in violation of 21 U.S.C. §§841(a)(1) and 846. At the hearing, Defendant was advised of the nature of the charge to which she would plead guilty and the maximum penalty applicable, specifically: Twenty (20) years custody; \$1,000,000 fine, or both; three (3)

years supervised release; two (2) additional years imprisonment if supervised release is revoked on any such revocation; \$100 assessment; and restitution .


Upon questioning Defendant personally in open court, it is the finding of the Court that Defendant is fully competent and capable of entering an informed plea, that she is aware of the nature of the charged offense and the consequences of the plea, and that her plea of guilty to the offense contained in the Indictment is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense. It is, therefore, the Court's recommendation that the guilty plea to the Indictment be accepted and that Defendant be adjudged guilty of that offense.

NOTICE TO PARTIES

The parties have ten (10) days after service of this Report and Recommendation to file written objections pursuant to 28 U.S.C. §636(b)(1), unless an extension of time for good cause is obtained. Failure to file timely objections will result in the waiver of the right to appeal questions of fact. Objections must be timely and specific in order to require de novo review by the District Court.

Dated this 18th day of July, 2008, at Pierre, South Dakota.

BY THE COURT:



MARK A. MORENO
UNITED STATES MAGISTRATE JUDGE

ATTEST:
JOSEPH HAAS, CLERK

BY: 
Deputy

(SEAL)